

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 16-11700-smb

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6 In the Matter of:

7
8 GAWKER MEDIA, LLC,

9
10 Debtor.

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12 - - - - - x

13
14 United States Bankruptcy Court

15 One Bowling Green

16 New York, New York

17
18 April 18, 2017

19 10:00 a.m.

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23 B E F O R E :

24 HON STUART M. BERNSTEIN

25 U.S. BANKRUPTCY JUDGE

1 Second Interim Application of Simpson, Thacher & Bartlett,
2 LLP for Approval and Allowance of Compensation for Services
3 Rendered and Reimbursement of Expenses Incurred for Official
4 Committee of Unsecured Creditors of Gawker Media LLC, et
5 al., Other Professional, period: 10/1/2016 to 1/31/2017,
6 fee: \$557,908.00, expenses: \$41,209.16.

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8 Debtor's Objection to the Claims of Aladar Baldauf (Claim
9 Nos. 326 and 332)

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25 Transcribed by: Sherri L. Breach, CERT*D-397

1 A P P E A R A N C E S :

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14 BY: WILLIAM T. RUSSELL, JR., ESQ.

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17 Attorneys for U.S. Trustee

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22 BY: GREG ZIPES, ESQ.

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1 P R O C E E D I N G S

2 THE CLERK: Please be seated.

3 THE COURT: Gawker.

4 MR. GALARDI: Good morning, Your Honor. Gregg
5 Galardi on behalf of the now gone effective Gawker entities.

6 Your Honor, the agenda is short, two matters to
7 address today. The others are adjourned.

8 The first is an uncontested matter which is the
9 Simpson and Thacher fee application. Counsel is here. I'll
10 let them address that and then turn to the claim.

11 THE COURT: Okay.

12 MR. RUSSELL: Good morning, Your Honor. William
13 Russell of Simpson, Thacher & Bartlett, LLP. On behalf of
14 the, I guess, now dissolved committee now for the plaintiffs
15 gone effective here on my firm's second interim fee
16 application. There has been no objection. Mr. Zipes
17 reached out yesterday with a couple of questions. We agreed
18 since this is an interim application we would simply kind of
19 try and resolve those issues before our final fee
20 application.

21 THE COURT: All right. Okay. When are you going
22 to file the final fee application because you're done?

23 MR. RUSSELL: We are done. Yes. So I think we
24 had actually filed this when the effective date was still
25 moving. Again, we didn't realize when it was going to take

1 place. Our goal is to get it done probably the first or
2 second week of May. I think it's due by like May 20th.

3 MR. GALARDI: I think it's May -- it's about May
4 15th is the deadline --

5 MR. RUSSELL: The 15th.

6 MR. GALARDI: -- Your Honor, to file them and --

7 THE COURT: All right.

8 MR. GALARDI: -- I think people are working on it.

9 THE COURT: Was there a holdback from the first
10 fee application?

11 MR. RUSSELL: I believe --

12 MR. GALARDI: Yes. There's five percent.

13 MR. RUSSELL: Yeah. Five percent.

14 MR. GALARDI: I think we left five percent.

15 MR. RUSSELL: Yeah.

16 THE COURT: Are there any objection to the
17 allowance of the interim fee application?

18 MR. ZIPES: No, Your Honor.

19 THE COURT: All right. I'll allow a hundred
20 percent of the application on an interim basis, both fees
21 and expenses subject to review at the time of the final fee
22 application.

23 MR. RUSSELL: Thank you very much.

24 THE COURT: You can submit an order.

25 MR. RUSSELL: Thank you.

1 THE COURT: Next.

2 MR. GALARDI: Your Honor, that brings us to the
3 one contested matter which is the claims objection of the
4 debtor's to an administrative claim and a proof of claim
5 filed by Aladar Baldauf.

6 Your Honor, I did submit a declaration yesterday
7 with respect to the response that I had received.

8 Your Honor, if I may approach I just want to give
9 you three documents.

10 THE COURT: Yes.

11 (Pause)

12 MR. GALARDI: Your Honor, because this claimant
13 was in Hungary and I had a number of e-mail correspondence
14 about this I thought it was better to have come to the
15 hearing today to present why we believe the objections are
16 well founded and should be overruled and the claim should be
17 disallowed.

18 Your Honor, I've handed up, in addition to Mr.
19 Holden who is in the courtroom today and submitted a
20 declaration explaining the basis of the objection, there is
21 my declaration that set forth his response that was sent to
22 us after the objection deadline.

23 THE COURT: I -- I don't have the reply or
24 subsequent declaration of yours.

25 MR. GALARDI: Of mine?

1 THE COURT: Yeah.

2 MR. GALARDI: Okay. Let me hand that up then.

3 THE COURT: If you will just give me a minute I'll
4 read all this. Which --

5 MR. GALARDI: Okay.

6 THE COURT: -- order should I read it in?

7 MR. GALARDI: The order that I presented it to
8 Your Honor is the order and I was just going to explain, the
9 one is the very first judgment and we had a translation. If
10 I may approach, Your Honor?

11 THE COURT: Yeah. Let me just read -- let me just
12 read this.

13 MR. GALARDI: Sure. If I explain just quickly
14 before you read it may help.

15 The first one is a judgment, September 30th, which
16 Kinja was a party to the judgment and there is a judgment
17 entered.

18 THE COURT: That's the \$44 judgment?

19 MR. GALARDI: Yes. The 12,700 florios (sic).

20 The second judgment, as you will see, and I can
21 point to the sentence again translated is the appeal, but
22 Gawker Kinja did not be party to that appeal.

23 And then the third document I handed is proof of
24 the payment of the 12,700 florios (sic) that we were
25 responsible for under the first judgment.

1 (Pause)

2 THE COURT: Is that \$44?

3 MR. GALARDI: Yeah. So he wants \$35,000.

4 THE COURT: Okay. Do you know where he came up
5 with that number?

6 MR. GALARDI: I don't. I think it's a
7 combination, if you read the response that's attached to the
8 Galardi declaration, it is, one, there was an appeal and
9 there was some extra money. But, again, it was only maybe
10 \$1,000 U.S. And then he believes under U.S. law he's
11 entitled to some additional amounts. And --

12 THE COURT: Let me just --

13 MR. GALARDI: -- he also suggests that there was a
14 continuing violation. However, we sold the blog the day
15 after the judgment was entered.

16 THE COURT: Let me just read these documents.

17 (Pause)

18 THE COURT: So I read his response quickly. He
19 seems to be arguing that there's a continuing violation
20 which entitled him, I guess, to more damages.

21 MR. GALARDI: Correct, Your Honor. And as set
22 forth in Mr. Holden's declaration and as of the judgment,
23 the first judgment says we had to take the photo down. That
24 judgment was entered on September 30th. We actually sold
25 the blog on October 1st, the actual next day. So we could

1 not be liable for the continuing violation.

2 The other defendant, who did take an appeal and we
3 did not take the appeal, continued to use the photo --

4 THE COURT: Right.

5 MR. GALARDI: -- and then it was subject to that
6 second judgment. We don't have any dispute. Maybe he has a
7 claim against them, but as to the continuing violation
8 argument we don't think we can be liable given the sale of
9 the blog on October 1st, the day after the first judgment.

10 He accepted the payment. That's one of the
11 documents that we gave you. We did wire the payment in the
12 full amount of the --

13 THE COURT: Yeah. I don't think --

14 MR. GALARDI: -- judgment.

15 THE COURT: -- the issue is the payment of the
16 judgment. He's -- again, I've read it quickly -- seems to
17 be saying that there was a continuing violation.

18 MR. GALARDI: I will only note -- and, again, it's
19 a technicality and it's Hungarian. The only thing he put in
20 his claim was the first judgment -- well, it was the
21 appellate judgment saying, this is what we're liable for.
22 That's not even 35,000, didn't mention the continuing
23 liability there. I'll hand up the proof of claim if Your
24 Honor doesn't have it handy.

25 THE COURT: So are you prepared to allow his claim

1 in the amount of a thousand, is that what it is, \$1,000?

2 MR. GALARDI: Well, it was 12,700 flora (sic). We
3 already paid it. So the claim has been satisfied.

4 THE COURT: As I understand it, though, you were
5 under an obligation to remove it. You didn't remove it.
6 You simply sold the --

7 MR. GALARDI: We had no ability to remove it once
8 we sold the blog.

9 THE COURT: Well, you could have removed it
10 before.

11 MR. GALARDI: We didn't have the judgment against
12 us before. It was exactly the next day.

13 THE COURT: All right. Okay.

14 MR. GALARDI: October 1st, September 30th.

15 THE COURT: All right.

16 Does anyone else want to be heard?

17 The record should reflect there's no response.

18 I'll grant the application. There are a couple of
19 issues here. The one is this \$44 judgment which was paid.
20 The other issue is whether or not you can be liable for a
21 continuing tort after you had sold the blog. I don't have
22 any affidavit of Hungarian law which will inform me on this,
23 and it seems to me he got the judgment against the party
24 that purchased the blog and left his photo up there and is
25 free to enforce it.

1 But there's no basis for him to assert a, what, a
2 \$35,000 claim you said?

3 MR. GALARDI: Right.

4 THE COURT: I didn't see any basis for that. So
5 I'll grant the application. You can submit an order.

6 MR. GALARDI: Thanks, Your Honor. We'll submit an
7 order and obviously serve it on him --

8 THE COURT: Yes.

9 MR. GALARDI: -- at the --

10 THE COURT: You know what? Settle an order on
11 notice --

12 MR. GALARDI: Okay.

13 THE COURT: -- since he's in Hungary make it ten
14 days' notice.

15 MR. GALARDI: That's fine, Your Honor.

16 That concludes our matters today, Your Honor.

17 THE COURT: So what's going on in the case?

18 MR. GALARDI: Well, I guess a week from today we
19 have the rescheduled motion on Mr. Teal's -- on our 2004
20 examination request with respect to Mr. Teal.

21 As I mentioned last time we went effective the IRS
22 is audit -- has taken an audit of 2014 and '15. We've
23 reached an agreement with them to have the hearing on any
24 disputed issues. I want to say it's roughly 60 days from
25 today. We have contacted Your Honor.

1 And then we were advised yesterday I believe it is
2 or maybe last Friday, it was actually last Friday, that we
3 had filed our 2016 return which is what we delayed the
4 effective date to do. We filed the 2016 return. We made a
5 505(b) request with respect to that and we were advised
6 yesterday or Friday that they are taking that under audit.
7 So we'll have that.

8 Other than that, I think we're almost done with
9 all claims matters so it's really just finishing up the tax
10 liabilities.

11 We are taking steps with respect to Kinja Gawker
12 Hungary to dissolve that company. Under Hungarian law as of
13 the end of this month, I believe, or May 1st will be the
14 date that we will do that.

15 And then really it's just finishing up and then
16 making further distributions once we know the IRS tax
17 liability issues.

18 THE COURT: And you have the claim issue with
19 Godman's and Johnson --

20 MR. GALARDI: We still have -- we're under
21 advisement on the Johnson. That's the only other litigation
22 --

23 THE COURT: Right.

24 MR. GALARDI: -- I think is outstanding --

25 THE COURT: Okay.

1 MR. GALARDI: -- yeah, and the tax, Hungarian
2 taxes, I believe.

3 THE COURT: All right.

4 MR. GALARDI: And that's it.

5 THE COURT: Thank you very much.

6 MR. GALARDI: Thank you, Your Honor.

7 MR. RUSSELL: Thank you, Your Honor.

8 MR. ZIPES: Thank you.

9 THE COURT: Thank you.

10 (Whereupon, these proceedings concluded at 10:11 a.m.)
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I N D E X

RULINGS

DESCRIPTION

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LINE

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Debtor's Objection to the Claims of

Aladar Baldauf (Claim Nos. 326 and 332)

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C E R T I F I C A T I O N

I, Sherri L. Breach, CERT*D-397, certified that the foregoing transcript is a true and accurate record of the proceedings.

Sherri L
Breach

Digitally signed by Sherri L Breach
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AAERT Certified Electronic Reporter & Transcriber CERT*D-397

Date: April 18, 2017

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